

09/30/03



03945 U.S. PTO  
10/674698



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                                 |   |                    |                               |                  |
|---------------------------------|---|--------------------|-------------------------------|------------------|
| STREET NUMBER<br>60044.0058USC4 | ANTICIPATED CLASSIFICATION OF THIS APPLICATION: |                    | PRIOR APPLICATION             |                  |
|                                 | CLASS<br>424                                    | SUBCLASS<br>657000 | EXAMINER<br>Azpuru, Carlos A. | ART UNIT<br>1615 |

CERTIFICATE UNDER 37 CFR 1.10  
 'Express Mail' mailing label number: EV359708804US  
 Date of Deposit: September 30, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Patents, Mail Stop Patent Application, P.O. Box 1450, Alexandria, VA 22313-1450

By: *James D. Withers*  
 Name: James D. Withers

CONTINUATION APPLICATION UNDER 37 C.F.R. § 1.53(b)

Mail Stop PATENT APPLICATION  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Dear Sir:

This is a request for filing a continuation application under 37 CFR § 1.53(b) of Serial No. 10/134,109, filed on April 29, 2002 entitled "Methods and Compositions for Retarding and Eradicating Infestation in Trees and Tree Derived Products" by the following inventor(s):

|                         |                        |                          |                          |
|-------------------------|------------------------|--------------------------|--------------------------|
| Full Name Of Inventor   | Family Name            | First Given Name         | Second Given Name        |
| Residence & Citizenship | Galyon                 | Stanley                  | D.                       |
| Post Office Address     | City                   | State or Foreign Country | Country of Citizenship   |
|                         | Maynardville           | Tennessee                | USA                      |
|                         | Post Office Address    | City                     | State & Zip Code/Country |
|                         | Rt. 3, Box 61A,        | Maynardville             | Tennessee 37807/USA      |
|                         | Rose Drive             |                          |                          |
| Full Name Of Inventor   | Family Name            | First Given Name         | Second Given Name        |
| Residence & Citizenship | Dietrich               | Allan                    | H.                       |
| Post Office Address     | City                   | State or Foreign Country | Country of Citizenship   |
|                         | Corryton               | Tennessee                | USA                      |
|                         | Post Office Address    | City                     | State & Zip Code/Country |
|                         | 9148 Washington Pike   | Corryton                 | Tennessee 37721/USA      |
| Full Name Of Inventor   | Family Name            | First Given Name         | Second Given Name        |
| Residence & Citizenship | Palmere                | Vincent                  | R.                       |
| Post Office Address     | City                   | State or Foreign Country | Country of Citizenship   |
|                         | Knoxville              | Tennessee                | USA                      |
|                         | Post Office Address    | City                     | State & Zip Code/Country |
|                         | 11334 Gates Mill Drive | Knoxville                | Tennessee 37922/USA      |

1. ☒

Enclosed is a copy of the prior application; including the specification, claims, drawings, a signed oath or declaration, and any amendments referred to in the oath or declaration filed to complete the prior application. (It is noted that no amendments referred to in the oath or declaration filed to complete the prior application introduced

new matter therein.) The continuing application is as follows: 74 pages of specification, 99 claims, 1 page of abstract, 0 sheets of drawings, and 1 pages of oath or declaration.

- ☒ The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

2. ☒ Cancel original claims 1-99 of this application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

3. ☒ The filing fee is calculated below:

**CLAIMS AS FILED**

| NUMBER FILED                      | NUMBER EXTRA |   | RATE                     | FEE             |
|-----------------------------------|--------------|---|--------------------------|-----------------|
| <b>TOTAL CLAIMS:</b><br>20 -20    | 0            | x | \$0.00                   | 0.00            |
| <b>INDEPENDENT CLAIMS</b><br>2 -3 | 0            | x | \$0.00                   | 0.00            |
|                                   |              |   | <b>BASIC FILING FEE:</b> | <b>\$375.00</b> |
|                                   |              |   | <b>TOTAL FILING FEE:</b> | <b>375.00</b>   |

- ☒ Small entity status is claimed pursuant to 37 CFR 1.27.

4. ☒ Payment of fees:  
☐ Attached is a check in the amount of  
☒ Please charge Deposit Account No. 13-2725.

5. ☒ The Commissioner is hereby authorized to charge any additional fees as set forth in 37 CFR §§ 1.16 to 1.18 which may be required by this paper or credit any overpayment to Account No. 13-2725.

6. ☒ Amend the specification by inserting before the first line the sentence:

"This application is a continuation of application Serial No. 10/134,109, filed April 29, 2002, which is a continuation of United States Patent Application No. 09/658,899 filed September 11, 2000, which is a continuation of United States Patent Application No. 08/616,654 filed March 15, 1996, which is a divisional application of United States Patent Application No. 08/465,434 filed June 5, 1995, which is a divisional application of United States Patent Application No. 08/213,108 filed March 14, 1994, which is a divisional application of United States Patent Application No. 07/847,345 filed March 6, 1992, which is a divisional application of United States Patent Application No. 07/528,838 filed May 24, 1990, the benefit of which is claimed under 35 U.S.C. § 120."

7. ☐ A set of formal drawings ( sheets) is enclosed.

8. ☐ Priority of application Serial No. , filed on in , is claimed under 35 U.S.C. 119.

- ☐ The certified copy has been filed in prior application Serial No. , filed .

9. ☒ The prior application is assigned of record to Nisus Corporation located at Rockford, Tennessee.

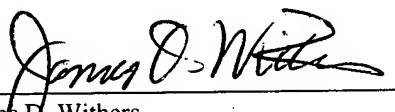
10. ☒ The Power of Attorney in the prior application is to:
- Merchant & Gould LLC  
Atlanta, GA 30303-1821
11. ☒ A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)
- ☐ Fee for excess claims is attached.
12. ☐ A petition and fee has been filed to extend the term in the prior application until . A copy of the petition for extension of time in the prior application is attached.
13. ☐ The inventor(s) in this application are less than those named in the prior application and it is requested that the following inventors identified above for the prior application be deleted:
14. ☐ A Nonpublication Request under 37 CFR 1.213(a) is enclosed.
15. ☒ Also Enclosed: Information Disclosure Statement; Form 1449
16. ☒ Address all future communications to the **Attention of James D. Withers** (may only be completed by attorney or agent of record) at the address below.
17. ☒ A return postcard is enclosed.

Respectfully submitted,

MERCHANT & GOULD LLC  
P.O. Box 2903  
Minneapolis, MN 55402-0903  
404.954.5100

CUSTOMER NUMBER 23552

Date: September 30, 2003

  
James D. Withers  
Reg. No. 40,376  
JDW